

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, D.C. 20007-5108**

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

NEW YORK, NY

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

MUMBAI, INDIA

DIRECT LINE: (202) 342-8614

EMAIL: dsmith@kelleydrye.com

March 1, 2010

**VIA ECFS**

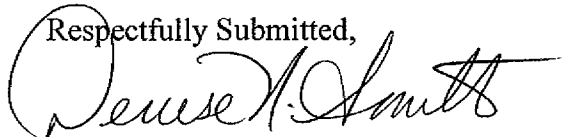
Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: Annual Customer Proprietary Network Information Compliance  
Certification; EB Docket No. 06-36

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 64.2009(e), Firefly Mobile Communications, Inc. hereby provides its 2010 Annual Customer Proprietary Network Information Compliance Certification. Please feel free to contact me if you have any questions regarding this filing.

Respectfully Submitted,



Denise N. Smith

*Counsel to Firefly Mobile Communications, Inc.*

cc: Best Copy and Printing, Inc. (via e-mail)

**Annual Customer Proprietary Network Information Certification**  
**Pursuant to 47 C.F.R. § 64.2009(e)**  
**EB Docket No. 06-36**  
**February 2010**

Annual 64.2009(e) CPNI Certification for 2010 covering the prior calendar year 2009

Name of Company: Firefly Mobile Communications, Inc.

Form 499 Filer ID: 827947

Name of Signatory: Norman Klugman

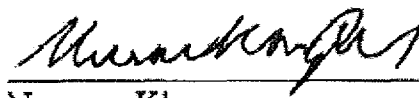
Title of Signatory: Executive Vice President

I, Norman Klugman, certify that I am an officer of Firefly Mobile Communications, Inc. ("Firefly"), and acting as an agent of Firefly, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. *See 47 C.F.R. § 64.2001 et seq.*

Attached to this certification is an accompanying statement explaining how Firefly's procedures ensure the company is in compliance with the requirements set forth in sections 64.2001 *et seq.* of the Commission's rules.

Firefly has not taken any actions (instituted proceedings or filed petitions at either state commissions, courts, or at the FCC) against data brokers in the past year. Firefly has no information outside of Commission Docket No. 96-115, or that is not otherwise publicly available (*e.g.*, through news media), regarding the processes pretexters are using to attempt to access CPNI.

Firefly has not received any customer complaints in the past year concerning the unauthorized release of CPNI.

  
\_\_\_\_\_  
Norman Klugman  
Executive Vice President  
Firefly Mobile

Date: 2/26/2010

## **Customer Proprietary Network Information Certification Attachment A**

Firefly has established practices and procedures adequate to ensure compliance with Section 222 of the Communications Act of 1934, as amended, and the Federal Communications Commission's ("FCC") rules pertaining to customer proprietary network information ("CPNI") set forth in sections 64.2001 – 64.2011 of the Commission's rules. This attachment summarizes those practices and procedures.

### **Safeguarding against pretexting**

- Firefly takes reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI, including the authentication of customers prior to disclosing CPNI based on customer-initiated contacts. Firefly is committed to notifying the FCC of any novel or new methods of pretexting it discovers and of any actions it takes against pretexters and data brokers.

### **Training and discipline**

- Firefly trains its supervisory and non-supervisory personnel in an effort to ensure that its employees, in accordance with FCC regulations: (a) understand what CPNI is, (b) join in and carry-out Firefly's obligation to protect CPNI, (c) understand when they are and when they are not authorized to use or disclose CPNI, (d) obtain customers' informed consent as required with respect to its use for marketing purposes, and (e) keep records regarding receipt of such consent, customer complaints regarding CPNI and the use of CPNI for marketing campaigns.
- Firefly employees are required to review Firefly's CPNI practices and procedures and to acknowledge their comprehension thereof.
- Firefly also requires all outside Dealers and Agents to review Firefly's CPNI practices and procedures and to acknowledge receipt and review thereof.
- Firefly has a disciplinary process in place for violation of the company's CPNI practices and procedures. The careless or intentional failure to comply with these practices and procedures may result in disciplinary action, up to and including discharge.

### **Firefly's use of CPNI**

- Firefly may use CPNI for the following purposes:
  - To initiate, render, maintain, repair, bill and collect for services;
  - To protect its property rights; or to protect its subscribers or other carriers from fraudulent, abusive, or the unlawful use of, or subscription to, such services;
  - To provide inbound telemarketing, referral or administrative services to the customer during a customer initiated call and with the customer's informed consent.
  - To market additional services to customers that are within the same categories of service to which the customer already subscribes;
  - To provide CPE and call answering, voicemail or messaging, voice storage and retrieval services, fax store-and-forward, and protocol conversion;
  - To market services formerly known as adjunct-to-basic services; and
- Firefly does not disclose or permit access to CPNI to track customers that call competing service providers.

- Firefly discloses and permits access to CPNI where required by law (e.g., under a lawfully issued subpoena).
- Firefly maintains CPNI no longer than necessary for its original purpose, except when required to maintain CPNI by law or for any legitimate business purpose.
- Firefly does not market or otherwise sell CPNI to any third party.

#### **Customer approval and informed consent**

- Firefly has implemented a system to obtain approval and informed consent from its customers prior to the use of CPNI for marketing purposes. This system also allows for the status of a customer's CPNI approval to be clearly established prior to the use of CPNI.
  - Prior to any solicitation for customer approval, Firefly notifies customers of their right to restrict the use of, disclosure of, and access to their CPNI.
  - Firefly uses opt-in approval when using or disclosing CPNI for purposes other than permitted under opt-out approval or in 47 USC 222 and the FCC's CPNI rules.
  - A customer's approval or disapproval remains in effect until the customer revokes or limits such approval or disapproval.
  - Records of approvals are maintained for at least one year.
  - Firefly provides individual notice to customers when soliciting approval to use, disclose, or permit access to CPNI.
  - The content of Firefly's CPNI notices comply with FCC rule 64.2008(c).

#### **Opt-out**

- Firefly uses opt-out for the marketing of communications related services by its employees outside the category of service to which the customer subscribes and for affiliate marketing of any communications related services. When Firefly uses opt-out approval, Firefly provides notification by electronic or written methods and waits at least 30 days after sending customers notice (for mail notifications, the 30 days begins to run 3 days after the notice was sent) and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. Firefly provides customers with opt-out notifications every two years. When using e-mail for opt-out notices, Firefly complies with the additional requirements set forth in FCC rule 64.2008(d)(3). Additionally, Firefly makes available to every customer an opt-out method, at no additional charge, that is available 24 hours a day, seven days a week.

#### **Opt-in**

- Firefly uses opt-in approval for marketing by independent contractors and joint venture partners and for then marketing of non-communications related services by itself and its affiliates. When Firefly uses opt-in approval, Firefly provides notification consistent with FCC rule 64.2008(c).

#### **One time use**

- After authentication, Firefly uses oral notice to obtain limited, one-time approval for use of CPNI for the duration of a call. The contents of such notice comports with FCC rule 64.2008(f).

## **Additional safeguards**

- Firefly maintains for at least one year records of all marketing campaigns that use its customers' CPNI, including a description of each campaign and the CPNI used, the products offered as part of the campaign, and instances where CPNI was disclosed to third parties or where third parties were allowed access to CPNI. Such campaigns are subject to a supervisory approval and compliance review process, the records of which also are maintained for a minimum of one year.
- Firefly has established a supervisory review process designed to ensure compliance with the FCC's CPNI rules for outbound marketing situations and maintenance of records.
- Firefly designates one or more officers, as an agent or agents of the company, to sign and file a CPNI compliance certificate on an annual basis. The certificate conforms to the requirements set forth in FCC rule 64.2009(e).
- Firefly will provide written notice to the Commission in accordance with the requirements of FCC rule 64.2009(f) if ever its opt-out mechanisms malfunction in the manner described therein.
- Firefly does not have any retail locations.
- Firefly authenticates a customer prior to disclosing CPNI based on customer initiated telephone contact or online account access.
  - When a request for access to CPNI is made via customer-initiated telephone contact, Firefly only discloses call detail information if the customer provides a password, as described in 47 C.F.R. § 64.2010(e), without any prompting by the carrier asking for readily available biographical information or account information. If the customer does not provide a password, Firefly will only disclose call detail information by sending it to the customer's address of record or by calling the customer at the telephone number of record.
  - Firefly authenticates a customer without the use of readily available biographical information, or account information, prior to allowing the customer online access to CPNI related to a telecommunications service account. Once authenticated, the customer may only obtain online access to CPNI related to a Firefly service account by providing a password, as described in 47 C.F.R. § 64.2010(e), that is not prompted by the carrier asking for readily available biographical information, or account information.
- Firefly establishes passwords for its customers by authenticating the customer without the use of readily available biographical information or account information. Firefly has established a back-up customer authentication method, which does not prompt the customer for readily available biographical information, in the event of a lost or forgotten password. If a Firefly customer cannot provide the correct password or the correct response for the back-up customer authentication method, Firefly requires that the customer establish a new password, in accordance with 47 C.F.R. § 64.2010(e).
- Firefly has established procedures to notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. Such notifications are made through a Firefly-originated mail to the address of record.

- Firefly may negotiate alternative authentication procedures for services that Firefly provides to business customers that have both a dedicated account representative and a contract that specifically addresses Firefly's protection of CPNI.
- In the event of a breach of CPNI, Firefly will notify law enforcement as soon as practicable and no later than seven (7) business days from discovering the breach. Customers will be notified after the seven (7) day period, unless the relevant investigatory party directs Firefly to delay notification, or Firefly and the investigatory party agree to an earlier notification. Firefly will maintain a record of all CPNI security breaches, including a description of the breach and the CPNI involved, along with notifications sent to law enforcement and affected customers.
- When Firefly discloses to or provides independent contractors or joint venture partners with access to CPNI, it does so pursuant to confidentiality agreements that (a) require the independent contractor/joint venture partner to use CPNI only for the purpose it has been provided, (b) prohibit independent contractor/joint venture partners disclosure of such CPNI except under force of law, and (c) require the independent contractor/joint venture partner to have appropriate protections in place to ensure the ongoing confidentiality of the CPNI.